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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,159	03/11/2004	Eric Rosenthal	CDP Patent APP	7578
Eric Rosenthal 191 Beacon Hill Road Morganville, NJ 07751-4208			EXAMINER BAYAT, ALI	
			ART UNIT 2624	PAPER NUMBER
			MAIL DATE 09/14/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/798,159

Applicant(s)

ROSENTHAL ET AL.

Examiner

Ali Bayat

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 11 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### ***Specification***

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because it not narrative and the use of phraseology such as "means". Correction is required.

### ***Claim Objections***

2. Claims 1-4 are objected to because of the following informalities:

Claim 1 is objected to because, firstly claim has constituted from two sentences, first sentence ends with period in line 2, and second sentence ends with period in last line. Claim should constitute from one sentence only. Secondly the preamble of claim 1,

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is a method, further in step b) claim changed to a device, this can't be operate-able, because device cannot be included in a method. Device claim should refer to an apparatus or a device. The format of claim is improper Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper form. Appropriate correction is required.

Examiner suggestion " a method for capturing the spectral content of an image, comprising:

a. Segmenting the image ...; b. separating ...; c. determining ...". Examiner also suggests adding apparatus claims for the device.

Claims 2-4 are objected to because they are different embodiment, each embodiment should be claimed separately, and not to be dependent from another embodiment. Further it is not clear whether, claims 2-4, referring to a method or an apparatus or a device. Appropriate correction is required.

### **Claim Rejections - 35 USC § 102**

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Ammeter et al. (US 5,957,049).

In regard to claim 1, Ammeter provides for a) segmenting the image into an array of pixels (Fig.2 element 4, col.4 lines 10-15), each pixel associated with a distinct spectral energy function signature of the image (col.5 lines 15-25, see L, a, b and I which corresponds to spectral energy); b) separately directing the spectral energy element of each pixel to a spectral energy dispersion device that spreads the energy function into a continuous spectrum representative of an entire spectrum of interest ( col.4 lines 5-10, note spectrophotometer); and c) for each pixel ( Fig.2 element 4, col.4 lines 10-15), functioning as a spectrum analyzer( col.4 lines 5-10, note spectrophotometer), determining an amplitude value for each of the resolved spectral components ( col.4 lines 30-40).

With regard to claim 2, Ammeter provides for the spectral energy dispersion device in claim 1 is implemented as part of a spectrophotometer. (Col.4 lines 5-10, note spectrophotometer).

As to claim 3, Ammeter provides for determining an amplitude value for each of the spectral components in claim 1 includes using a linear array of photo-detectors (Fig.2 see scanner 2, note the measuring unit spectrophotometrically scans sheet 3, corresponds to array of photo-detectors) optically to evaluate the output of the spectrophotometer (col.4 lines 5-12).

In regard to claim 4, Ammeter provides for a modulated flexible grating is utilized to detect smaller wavelength bandwidth by jittering or stressing the grating (Fig.2, element C, col.5 lines 10-11, see infrared value I, which corresponds to

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smaller wavelength bandwidth are calculated from the spectral reflection values by computer C).

### **Contact Information**

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ali Bayat whose telephone number is 571-272-7444.

The examiner can normally be reached on M-F 9:00 AM-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Bella can be reached on 571-272-7778. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ali Bayat

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Patent Examiner

Division 2624

9/10/07

A-B

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